

Ohio Revised Code

Chapter 4906: POWER SITING

4906.01 Power siting definitions.

As used in Chapter 4906. of the Revised Code:

(A) "Person" means an individual, corporation, business trust, association, estate, trust, or partnership or any officer, board, commission, department, division, or bureau of the state or a political subdivision of the state, or any other entity.

(B)

(1) "Major utility facility" means:

(a) Electric generating plant and associated facilities designed for, or capable of, operation at a capacity of fifty megawatts or more;

(b) An electric transmission line and associated facilities of a design capacity of one hundred twenty-five kilovolts or more;

(c) A gas pipeline that is greater than five hundred feet in length, and its associated facilities, is more than nine inches in outside diameter and is designed for transporting gas at a maximum allowable operating pressure in excess of one hundred twenty-five pounds per square inch.

(2) "Major utility facility" does not include any of the following:

(a) Gas transmission lines over which an agency of the United States has exclusive jurisdiction ;

(b) Any solid waste facilities as defined in section [6123.01](#) of the Revised Code ;

(c) Electric distributing lines and associated facilities as defined by the power siting board;

(d) Any manufacturing facility that creates byproducts that may be used in the generation of electricity as defined by the power siting board;

(e) Gathering lines, gas gathering pipelines, and processing plant gas stub pipelines as those terms are defined in section [4905.90](#) of the Revised Code and associated facilities;

(f) Any gas processing plant as defined in section [4905.90](#) of the Revised Code;

(g) Natural gas liquids finished product pipelines;

(h) Pipelines from a gas processing plant as defined in section [4905.90](#) of the Revised Code to a natural gas liquids fractionation plant, including a raw natural gas liquids pipeline, or to an interstate or intrastate gas pipeline;

(i) Any natural gas liquids fractionation plant;

(j) A production operation as defined in section [1509.01](#) of the Revised Code, including all pipelines upstream of any gathering lines;

(k) Any compressor stations used by the following:

(i) A gathering line, a gas gathering pipeline, a processing plant gas stub pipeline, or a gas processing plant as those terms are defined in section [4905.90](#) of the Revised Code;

(ii) A natural gas liquids finished product pipeline, a natural gas liquids fractionation plant, or any pipeline upstream of a natural gas liquids fractionation plant; or

(iii) A production operation as defined in section [1509.01](#) of the Revised Code.

(C) "Commence to construct" means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route of a major utility facility, but does not include surveying changes needed for temporary use of sites or routes for nonutility purposes, or uses in securing geological data, including necessary borings to ascertain foundation conditions.

(D) "Certificate" means a certificate of environmental compatibility and public need issued by the power siting board under section [4906.10](#) of the Revised Code or a construction certificate issued by the board under rules adopted under division (E) or (F) of section [4906.03](#) of the Revised Code.

(E) "Gas" means natural gas, flammable gas, or gas that is toxic or corrosive.

(F) "Natural gas liquids finished product pipeline" means a pipeline that carries finished product natural gas liquids to the inlet of an interstate or intrastate finished product natural gas liquid transmission pipeline, rail loading facility, or other petrochemical or refinery facility.

(G) "Natural gas liquids fractionation plant" means a facility that takes a feed of raw natural gas liquids and produces finished product natural gas liquids.

(H) "Raw natural gas" means hydrocarbons that are produced in a gaseous state from gas wells and that generally include methane, ethane, propane, butanes, pentanes, hexanes, heptanes, octanes, nonanes, and decanes, plus other naturally occurring impurities like water, carbon dioxide, hydrogen sulfide, nitrogen, oxygen, and helium.

(I) "Raw natural gas liquids" means naturally occurring hydrocarbons contained in raw natural gas that are extracted in a gas processing plant and liquefied and generally include mixtures of ethane, propane, butanes, and natural gasoline.

(J) "Finished product natural gas liquids" means an individual finished product produced by a natural gas liquids fractionation plant as a liquid that meets the specifications for commercial products as defined by the gas processors association. Those products include ethane, propane, iso-butane, normal butane, and natural gasoline.

Amended by 129th General Assembly File No. 125, SB 315, §101.01, eff. 9/10/2012.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 04-05-1986

4906.02 Power siting board organization.

(A) There is hereby created within the public utilities commission the power siting board, composed of the chairman of the public utilities commission, the director of environmental protection, the director of health, the director of development, the director of natural resources, the director of agriculture, and a representative of the public who shall be an engineer and shall be appointed by the governor, from a list of three nominees submitted to the governor by the office of the consumers' counsel, with the advice and consent of the senate and shall serve for a term of four years. The chairman of the public utilities commission shall be chairman of the board and its chief executive officer. The chairman shall designate one of the voting members of the board to act as vice-chairman who shall possess during the absence or disability of the chairman all of the powers of the chairman. All hearings, studies, and consideration of applications for certificates shall be conducted by the board or representatives of its members. In addition, the board shall include four legislative members who may participate fully in all the board's deliberations and activities except that they shall serve as nonvoting members. The speaker of the house of representatives shall appoint one legislative member, and the president of the senate and minority leader of each house shall each appoint one legislative member. Each such legislative leader shall designate an alternate to attend meetings of the board when the regular legislative member he appointed is unable to attend. Each legislative member and alternate shall serve for the duration of the elected term that he is serving at the time of his appointment. A quorum of the board is a majority of its voting members. The representative of the public and, notwithstanding section [101.26](#) of the Revised Code, legislative members of the board or their designated alternates, when engaged in their duties as members of the board, shall be paid at the per diem rate of step 1, pay range 32, under schedule B of section [124.15](#) of the Revised Code and shall be reimbursed for the actual and necessary expenses they incur in the discharge of their official duties.

(B) The chairman shall keep a complete record of all proceedings of the board, issue all necessary process, writs, warrants, and notices, keep all books, maps, documents, and papers ordered filed by the board, conduct investigations pursuant to section [4906.07](#) of the Revised Code, and perform such other duties as the board may prescribe.

(C) The chairman of the public utilities commission may assign or transfer duties among the commission's staff. However, the board's authority to grant certificates under section [4906.10](#) of the Revised Code shall not be exercised by any officer, employee, or body other than the board itself.

(D) The chairman may call to his assistance, temporarily, any employee of the environmental protection agency, the department of natural resources, the department of agriculture, the department of health, or the department of development, for the purpose of making studies, conducting hearings, investigating applications, or preparing any report required or authorized under this chapter. Such employees shall not receive any additional compensation over that which they receive from the agency by which they are employed, but they shall be reimbursed for their actual and necessary expenses incurred while working under the direction of the chairman. All contracts for special services are subject to the approval of the chairman.

(E) The board's offices shall be located in those of the public utilities commission.

Effective Date: 10-17-1985

4906.03 Powers and duties of power siting board.

The power siting board shall:

(A) Require such information from persons subject to its jurisdiction as it considers necessary to assist in the conduct of hearings and any investigations or studies it may undertake;

(B) Conduct any studies or investigations that it considers necessary or appropriate to carry out its responsibilities under this chapter;

(C) Adopt rules establishing criteria for evaluating the effects on environmental values of proposed and alternative sites, and projected needs for electric power, and such other rules as are necessary and convenient to implement this chapter, including rules governing application fees, supplemental application fees, and other reasonable fees to be paid by persons subject to the board's jurisdiction. The board shall make an annual accounting of its collection and use of these fees and shall issue an annual report of its accounting, in the form and manner prescribed by its rules, not later than the last day of June of the year following the calendar year to which the report applies.

(D) Approve , disapprove, or modify and approve applications for certificates;

(E) Notwithstanding sections [4906.06](#) to [4906.14](#) of the Revised Code, the board may adopt rules to provide for an accelerated review of an application for a construction certificate for construction of a major utility facility related to a coal research and development project as defined in section [1555.01](#) of the Revised Code, or to a coal development project as defined in section [1551.30](#) of the Revised Code, submitted to the Ohio coal development office for review under division (B)(7) of section [1551.33](#) of the Revised Code. Applications for construction certificates for construction of major utility facilities for Ohio coal research and development shall be filed with the board on the same day as the proposed facility or project is submitted to the Ohio coal development office for review.

The board shall render a decision on an application for a construction certificate within ninety days after receipt of the application and all of the data and information it may require from the applicant. In rendering a decision on an application for a construction certificate, the board shall only consider the criteria and make the findings and determinations set forth in divisions (A)(2), (3), (5), and (7) and division (B) of section [4906.10](#) of the Revised Code.

(F) Notwithstanding sections [4906.06](#) to [4906.14](#) of the Revised Code, the board shall adopt rules to provide for an accelerated review of an application for a construction certificate for any of the following:

(1) An electric transmission line that is:

(a) Not more than two miles in length;

(b) Primarily needed to attract or meet the requirements of a specific customer or specific customers;

(c) Necessary to maintain reliable electric service as a result of the retirement or shutdown of an electric generating facility located within the state; or

(d) A rebuilding of an existing transmission line.

(2) An electric generating facility that uses waste heat or natural gas and is primarily within the current boundary of an existing industrial or electric generating facility;

(3) A gas pipeline that is not more than five miles in length or is primarily needed to meet the requirements of a specific customer or specific customers.

The board shall adopt rules that provide for the automatic certification to any entity described in this division when an application by any such entity is not suspended by the board, an administrative law judge, or the chairperson or executive director of the board for good cause shown, within ninety days of submission of the application. If an application is suspended, the board shall approve, disapprove, or modify and approve the application not later than ninety days after the date of the suspension.

Amended by 129th General Assembly File No. 125, SB 315, §101.01, eff. 9/10/2012.

Effective Date: 09-14-2000

4906.04 Certificate required for construction of major utility facility.

No person shall commence to construct a major utility facility in this state without first having obtained a certificate for the facility. The replacement of an existing facility with a like facility, as determined by the power siting board, shall not constitute construction of a major utility facility. Such replacement of a like facility is not exempt from any other requirements of state or local laws or regulations. Any facility, with respect to which such a certificate is required, shall thereafter be constructed, operated, and maintained in conformity with such certificate and any terms, conditions, and modifications contained therein. A certificate may only be issued pursuant to Chapter 4906. of the Revised Code. A certificate may be transferred, subject to the approval of the board, to a person who agrees to comply with the terms, conditions, and modifications contained therein.

Effective Date: 11-15-1981

4906.05 Certificate exemptions.

No certificate is required for a major utility facility on which construction had already commenced on October 23, 1972, or within two years thereafter. This section does not exempt such a facility from any other requirements of state and local laws and regulations.

No certificate is required for any major utility facility already in operation on October 23, 1972, and the facility shall not be exempt from any applicable state or local laws or regulations. A certificate is required for any substantial addition to a facility already in operation. "Substantial addition" shall be defined by the power siting board.

Any electric generating plant and associated facilities, electric transmission line and associated facilities, or gas pipeline and associated facilities which is not a major utility facility is not exempt from state or local laws or regulations.

Amended by 129th General Assembly File No. 125, SB 315, §101.01, eff. 9/10/2012.

Effective Date: 11-15-1981

4906.06 Certificate application.

(A) An applicant for a certificate shall file with the office of the chairperson of the power siting board an application, in such form as the board prescribes, containing the following information:

- (1) A description of the location and of the major utility facility;
- (2) A summary of any studies that have been made by or for the applicant of the environmental impact of the facility;
- (3) A statement explaining the need for the facility;
- (4) A statement of the reasons why the proposed location is best suited for the facility;
- (5) A statement of how the facility fits into the applicant's forecast contained in the report submitted under section [4935.04](#) of the Revised Code;
- (6) Such other information as the applicant may consider relevant or as the board by rule or order may require. Copies of the studies referred to in division (A)(2) of this section shall be filed with the office of the chairperson, if ordered, and shall be available for public inspection.

The application shall be filed not more than five years prior to the planned date of commencement of construction. The five-year period may be waived by the board for good cause shown.

(B) Each application shall be accompanied by proof of service of a copy of such application on the chief executive officer of each municipal corporation and county, and the head of each public agency charged with the duty of protecting the environment or of planning land use, in the area in which any portion of such facility is to be located.

(C) Each applicant within fifteen days after the date of the filing of the application shall give public notice to persons residing in the municipal corporations and counties entitled to receive notice under division (B) of this section, by the publication of a summary of the application in newspapers of general circulation in such area. Proof of such publication shall be filed with the office of the chairperson.

(D) Inadvertent failure of service on, or notice to, any of the persons identified in divisions (B) and (C) of this section may be cured pursuant to orders of the board designed to afford them adequate notice to enable them to participate effectively in the proceeding. In addition, the board, after filing, may require the applicant to serve notice of the application or copies thereof or both upon such other persons, and file proof thereof, as the board considers appropriate.

(E) An application for an amendment of a certificate shall be in such form and contain such information as the board prescribes. Notice of such an application shall be given as required in divisions (B) and (C) of this section.

(F) Each application for certificate or an amendment shall be accompanied by the application fee prescribed by board rule. All application fees, supplemental application fees, and other fees collected by the board shall be deposited in the state treasury to the credit of the power siting board fund, which is hereby created. The chairperson shall administer and authorize expenditures from the fund for any of the purposes of this chapter. If the chairperson determines that moneys credited to the fund from an applicant's fee are not sufficient to pay the board's expenses associated with its review of the application, the chairperson shall request the approval of the controlling board to assess a supplemental application fee upon an applicant to pay anticipated additional expenses associated with the board's review of the application or an amendment to an application. If the chairperson finds that an application fee exceeds the amount needed to pay the board's expenses for review of the application, the chairperson shall cause a refund of the excess amount to be issued to the applicant from the fund.

Amended by 129th General Assembly File No.125, SB 315, §101.01, eff. 9/10/2012.

Effective Date: 04-07-2004

4906.07 Public hearing on application.

(A) Upon the receipt of an application complying with section [4906.06](#) of the Revised Code, the power siting board shall promptly fix a date for a public hearing thereon, not less than sixty nor more than ninety days after such receipt, and shall conclude the proceeding as expeditiously as practicable.

(B) On an application for an amendment of a certificate, the board shall hold a hearing in the same manner as a hearing is held on an application for a certificate if the proposed change in the facility would result in any material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of such facility other than as provided in the alternates set forth in the application.

(C) The chairperson of the power siting board shall cause each application filed with the board to be investigated and shall, not less than fifteen days prior to the date any application is set for hearing submit a written report to the board and to the applicant. A copy of such report shall be made available to any person upon request. Such report shall set forth the nature of the investigation, and shall contain recommended findings with regard to division (A) of section [4906.10](#) of the Revised Code and shall become part of the record and served upon all parties to the proceeding.

Amended by 129th General Assembly File No.125, SB 315, §101.01, eff. 9/10/2012.

Effective Date: 10-17-1985

4906.08 Parties - testimony.

(A) The parties to a certification proceeding shall include:

(1) The applicant;

(2) Each person entitled to receive service of a copy of the application under division (B) of section [4906.06](#) of the Revised Code, if the person has filed with the power siting board a notice of intervention as a party, within thirty days after the date the person was served with a copy of the application;

(3) Any person residing in a municipal corporation or county entitled to receive service of a copy of the application under division (B) of section [4906.06](#) of the Revised Code and any other person, if the person has petitioned the board for leave to intervene as a party within thirty days after the date of publication of the notice required by division (C) of section [4906.06](#) of the Revised Code, and if that petition has been granted by the board for good cause shown.

(B) The board, in extraordinary circumstances for good cause shown, may grant a petition, for leave to intervene as a party to participate in subsequent phases of the proceeding, that is filed by a person identified in division (A)(2) or (3) of this section that failed to file a timely notice of intervention or petition for leave to intervene, as the case may be.

(C) The board shall accept written or oral testimony from any person at the public hearing, but the right to call and examine witnesses shall be reserved for parties. However, the board may adopt rules to exclude repetitive, immaterial, or irrelevant testimony.

Effective Date: 04-07-2004

4906.09 Record of hearing.

A record shall be made of the hearing and of all testimony taken. Rules of evidence, as specified by the power siting board, shall apply to the proceeding. The board may provide for the consolidation of the representation of parties having similar interests.

Effective Date: 11-15-1981

4906.10 Basis for decision granting or denying certificate.

(A) The power siting board shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions, or modifications of the construction, operation, or maintenance of the major utility facility as the board considers appropriate. The certificate shall be conditioned upon the facility being in compliance with standards and rules adopted under sections [1501.33](#) , [1501.34](#) , and [4561.32](#) and Chapters 3704., 3734., and 6111. of the Revised Code. An applicant may withdraw an application if the board grants a certificate on terms, conditions, or modifications other than those proposed by the applicant in the application. The period of initial operation under a certificate shall expire two years after the date on which electric power is first generated by the facility. During the period of initial operation, the facility shall be subject to the enforcement and monitoring powers of the director of environmental protection under Chapters 3704., 3734., and 6111. of the Revised Code and to the emergency provisions under those chapters. If a major utility facility constructed in accordance with the terms and conditions of its certificate is unable to operate in compliance with all applicable requirements of state laws, rules, and standards pertaining to air pollution, the facility may apply to the director of environmental protection for a conditional operating permit under division (G) of section [3704.03](#) of the Revised Code and the rules adopted thereunder. The operation of a major utility facility in compliance with a conditional operating permit is not in violation of its certificate. After the expiration of the period of initial operation of a major utility facility, the facility shall be under the jurisdiction of the environmental protection agency and shall comply with all laws, rules, and standards pertaining to air pollution, water pollution, and solid and hazardous waste disposal.

The board shall not grant a certificate for the construction, operation, and maintenance of a major utility facility, either as proposed or as modified by the board, unless it finds and determines all of the following:

(1) The basis of the need for the facility if the facility is an electric transmission line or gas pipeline;

(2) The nature of the probable environmental impact;

(3) That the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations;

(4) In the case of an electric transmission line or generating facility, that the facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this

state and interconnected utility systems and that the facility will serve the interests of electric system economy and reliability;

(5) That the facility will comply with Chapters 3704., 3734., and 6111. of the Revised Code and all rules and standards adopted under those chapters and under sections [1501.33](#) , [1501.34](#) , and [4561.32](#) of the Revised Code. In determining whether the facility will comply with all rules and standards adopted under section [4561.32](#) of the Revised Code, the board shall consult with the office of aviation of the division of multi-modal planning and programs of the department of transportation under section [4561.341](#) of the Revised Code.

(6) That the facility will serve the public interest, convenience, and necessity;

(7) In addition to the provisions contained in divisions (A)(1) to (6) of this section and rules adopted under those divisions, what its impact will be on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929. of the Revised Code that is located within the site and alternative site of the proposed major utility facility. Rules adopted to evaluate impact under division (A)(7) of this section shall not require the compilation, creation, submission, or production of any information, document, or other data pertaining to land not located within the site and alternative site.

(8) That the facility incorporates maximum feasible water conservation practices as determined by the board, considering available technology and the nature and economics of the various alternatives.

(B) If the board determines that the location of all or a part of the proposed facility should be modified, it may condition its certificate upon that modification, provided that the municipal corporations and counties, and persons residing therein, affected by the modification shall have been given reasonable notice thereof.

(C) A copy of the decision and any opinion issued therewith shall be served upon each party.

Amended by 129th General Assembly File No.125, SB 315, §101.01, eff. 9/10/2012.

Effective Date: 04-07-2004

4906.11 Opinion stating reason for decision.

In rendering a decision on an application for a certificate, the power siting board shall issue an opinion stating its reasons for the action taken.

Effective Date: 11-15-1981

4906.12 Procedures of public utilities commission to be followed.

Sections [4903.02](#) to [4903.16](#) and [4903.20](#) to [4903.23](#) of the Revised Code shall apply to any proceeding or order of the power siting board under Chapter 4906. of the Revised Code, in the same manner as if the board were the public utilities commission under such sections.

Effective Date: 11-15-1981

4906.13 No local jurisdiction.

(A) As used in this section and sections [4906.20](#) and [4906.98](#) of the Revised Code, "economically significant wind farm" means wind turbines and associated facilities with a single interconnection to the electrical grid and designed for, or capable of, operation at an aggregate capacity of five or more megawatts but less than fifty megawatts. The term excludes any such wind farm in operation on the effective date of this section.

(B) No public agency or political subdivision of this state may require any approval, consent, permit, certificate, or other condition for the construction or initial operation of a major utility facility or economically significant wind farm authorized by a certificate issued pursuant to Chapter 4906. of the Revised Code. Nothing herein shall prevent the application of state laws for the protection of employees engaged in the construction of such facility or wind farm nor of municipal regulations that do not pertain to the location or design of, or pollution control and abatement standards for, a major utility facility or economically significant wind farm for which a certificate has been granted under this chapter.

Effective Date: 10-23-1972; 2008 HB562 06-24-2008

4906.14 Joint proceedings.

The power siting board, in the discharge of its duties under Chapter 4906. of the Revised Code, may make joint investigations, hold joint hearings within or without the state, and issue joint or concurrent orders in conjunction or concurrence with any official or agency of any state or of the United States, whether in the holding of such investigations or hearings, or in the making of such orders, the board is functioning under agreements or compacts between states or under the concurrent power of states to regulate interstate commerce, or as an agency of the United States, or otherwise. The board, in the discharge of its duties under Chapter 4906. of the Revised Code, may negotiate and enter into agreements or compacts with agencies of other states, pursuant to any consent of congress, for cooperative efforts in certificating the construction, operation, and maintenance of major utility facilities in accord with the purposes of such sections and for the enforcement of the respective state laws regarding such facilities.

Effective Date: 11-15-1981

4906.15 [Repealed].

Effective Date: 12-14-1977

4906.20 Certificate required to construct certain wind farms.

(A) No person shall commence to construct an economically significant wind farm in this state without first having obtained a certificate from the power siting board. An economically significant wind farm with respect to which such a certificate is required shall be constructed, operated, and maintained in conformity with that certificate and any terms, conditions, and modifications it contains. A certificate shall be issued only pursuant to this section. The certificate may be transferred, subject to the approval of the board, to a person that agrees to comply with those terms, conditions, and modifications.

(B) The board shall adopt rules governing the certificating of economically significant wind farms under this section. Initial rules shall be adopted within one hundred twenty days after June 24, 2008.

(1) The rules shall provide for an application process for certificating economically significant wind farms that is identical to the extent practicable to the process applicable to certificating

major utility facilities under sections 4906.06, 4906.07, 4906.08, 4906.09, 4906.10, 4906.11, and 4906.12 of the Revised Code and shall prescribe a reasonable schedule of application filing fees structured in the manner of the schedule of filing fees required for major utility facilities.

(2) Additionally, the rules shall prescribe reasonable regulations regarding any wind turbines and associated facilities of an economically significant wind farm, including, but not limited to, their location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement and including erosion control, aesthetics, recreational land use, wildlife protection, interconnection with power lines and with regional transmission organizations, independent transmission system operators, or similar organizations, ice throw, sound and noise levels, blade shear, shadow flicker, decommissioning, and necessary cooperation for site visits and enforcement investigations.

(a) The rules also shall prescribe a minimum setback for a wind turbine of an economically significant wind farm. That minimum shall be equal to a horizontal distance, from the turbine's base to the property line of the wind farm property, equal to one and one-tenth times the total height of the turbine structure as measured from its base to the tip of its highest blade and be at least one thousand one hundred twenty-five feet in horizontal distance from the tip of the turbine's nearest blade at ninety degrees to property line of the nearest adjacent property at the time of the certification application.

(b)

(i) For any existing certificates and amendments thereto, and existing certification applications that have been found by the chairperson to be in compliance with division (A) of section 4906.06 of the Revised Code before the effective date of the amendment of this section by H.B. 59 of the 130th general assembly, September 29, 2013, the distance shall be seven hundred fifty feet instead of one thousand one hundred twenty-five feet.

(ii) Any amendment made to an existing certificate after the effective date of the amendment of this section by H.B. 483 of the 130th general assembly shall be subject to the setback provision of this section as amended by that act. The amendments to this section by that act shall not be construed to limit or abridge any rights or remedies in equity or under the common law.

(c) The setback shall apply in all cases except those in which all owners of property adjacent to the wind farm property waive application of the setback to that property pursuant to a procedure the board shall establish by rule and except in which, in a particular case, the board determines that a setback greater than the minimum is necessary.

Amended by 130th General Assembly File No. TBD, HB 483, §101.01, eff. 9/15/2014.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Amended by 129th General Assembly File No. 125, SB 315, §101.01, eff. 9/10/2012.

Effective Date: 2008 HB562 06-24-2008

4906.201 Setback requirements.

(A) An electric generating plant that consists of wind turbines and associated facilities with a single interconnection to the electrical grid that is designed for, or capable of, operation at an aggregate capacity of fifty megawatts or more is subject to the minimum setback requirements

established in rules adopted by the power siting board under division (B)(2) of section 4906.20 of the Revised Code.

(B)

(1) For any existing certificates and amendments thereto, and existing certification applications that have been found by the chairperson to be in compliance with division (A) of section 4906.06 of the Revised Code before the effective date of the amendment of this section by H.B. 59 of the 130th general assembly, September 29, 2013, the distance shall be seven hundred fifty feet instead of one thousand one hundred twenty-five feet.

(2) Any amendment made to an existing certificate after the effective date of the amendment of this section by H.B. 483 of the 130th general assembly, shall be subject to the setback provision of this section as amended by that act. The amendments to this section by that act shall not be construed to limit or abridge any rights or remedies in equity or under the common law.

Amended by 130th General Assembly File No. TBD, HB 483, §101.01, eff. 9/15/2014.

Added by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

4906.97 Notice and hearing of complaint.

(A) Upon a finding by the power siting board that there are reasonable grounds to believe that a person has violated a provision of section [4906.98](#) of the Revised Code, the board shall fix a time for hearing such complaint and shall notify the person. The notice shall be served not less than fifteen days before the date of hearing and shall state the matters that are the subject of the complaint. Parties to the complaint are entitled to be heard, to be represented by counsel, and to have process to enforce the attendance of witnesses.

(B) The power siting board by order or its chairperson, with written notice to the person and opportunity to respond, may require that any activity that is the subject of a complaint under division (A) of this section be suspended for the duration of the board's consideration of the complaint. Upon a showing by the party against which the complaint was filed that all matters have been addressed satisfactorily, the chairperson shall terminate the suspension.

(C) After notice and opportunity for hearing in accordance with division (A) of this section and upon a finding by the board that a person has violated a provision of section [4906.98](#) of the Revised Code, the board by order may assess a forfeiture of not more than five thousand dollars for each day of the violation, but the aggregate of forfeitures for a related series of violations shall not exceed one million dollars. In determining the amount of any forfeiture, the board shall consider all of the following:

- (1) The gravity of the violation;
- (2) The person's history of prior violations;
- (3) The person's good faith efforts to comply and undertake corrective action;
- (4) The person's ability to pay the forfeiture;
- (5) The cost of the project;

(6) The effect of the forfeiture on the person's ability to continue as an applicant;

(7) Such other matters as justice requires.

(D) The attorney general, upon written request of the board, shall bring a civil action to recover any forfeiture assessed under division (C) of this section but not paid, or to seek other appropriate relief, including injunctive relief. The action shall be brought in the court of common pleas of Franklin county. The court shall give precedence to the action over all other cases.

(E) All forfeitures collected under division (C) or (D) of this section shall be deposited into the state treasury to the credit of the general revenue fund.

Effective Date: 04-07-2004

4906.98 Prohibited acts.

(A) No person shall construct a major utility facility or economically significant wind farm without first obtaining a certificate.

(B) No person shall construct, operate, or maintain a major utility facility or economically significant wind farm other than in compliance with the certificate the person has obtained.

(C) No person or economically significant wind farm shall fail to comply with any order issued pursuant to this chapter or with a suspension otherwise required under division (B) of section [4906.97](#) of the Revised Code.

Effective Date: 04-07-2004; 2008 HB562 06-24-2008

4906.99 Penalty.

Whoever willfully violates any provision of section [4906.98](#) of the Revised Code may be fined not less than one thousand dollars nor more than ten thousand dollars for each day of violation, or imprisoned for not more than one year, or both.

Effective Date: 04-07-2004